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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,063	10/29/1999	REINOUT G. OUSSOREN	BHAG.68900	6722

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EXAMINER

PHAM, MINH CHAU THI

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/03/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-18

# Office Action Summary

Application No. 09/430,063		Applicant(s)	
Examiner PHAM		Group Art Unit 1724	

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

*Amendment and Notice of Appeal*

- ☒ Responsive to communication(s) filed on 10/24/02 and 12/26/02 respectively
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 1-4 and 12-16 is/are allowed.
- ☒ Claim(s) 5-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. After thoroughly considering the amendment filed on October 24, 2002 and a Notice of Appeal filed on December 26, 2002, the finality is withdrawn and the prosecution is reopened.

***Allowable Subject Matter***

2. Claims 1-4 allowed.
3. The following is an examiner's statement of reasons for allowance: Claims 1-4 are allowable because Brunner is not a reference under 35 USC 102(e) with respect to these claims as Applicant has support in his 120 priority document for the broad limitations being claimed herein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Claims 12-16 are allowed as indicated in the last Office Action.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner (5,964,909; Abstract; A, B, C, 1, 2, 4, 5, 6, 7, 8, 9, 10 & 11 in Fig. 1; Figs. 2-5; col. 2, line 61 through col. 3, line 55; col. 4, lines 12-25).

Brunner discloses a filter cartridge to be removably and sealingly received within a circular opening through a tube sheet comprising a filter sleeve formed as a tubular member, a tubular screen positioned interiorly of the filter sleeve for structural support, a bottom end cap sealingly secured to the lower end of the filter sleeve, a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to or less than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to

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affect sealing engagement with the cylindrical mouth surface of the tube sheet. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the sealing arrangement in the opening of the tube sheet as taught by Brunner since when the sealing sleeve is inserted into the cartridge fitting the sidewall of the cartridge fitting balloons outwardly to contact the side of the opening in a tube sheet and form a dust tight seal around the opening in the tube sheet into which the filter cartridge is inserted.

***Response to Amendment***

7. Claims 5-11 are rejected as being unpatentable under 35 USC 103 over the Brunner reference. The subject matter of these claims does not find support in the priority document and thus Applicant cannot rely on the date of this document to antedate the date of the Brunner patent. The priority document does not disclose the tubular expander idea in conjunction with the use of a bulge to cause outward displacement of elastomeric fitting in order to seal the opening of the tube sheet. See In re Chu, 66 F.3d 292, 36 USPQ 2d 1089 (Fed. Cir. 1995) and MPEP 201.11 (pages 200-70/71). The rejection should be 103 because Brunner apparently does not seal all three surfaces of the opening of the tube sheet as claimed. Sealing of the bottom surface is not expressly shown. However, it is felt that this would have been obvious to one skilled in the art.
8. The 131 affidavit is inadequate to demonstrate prior invention because the corroborative evidence is not present. The single piece of evidence entered to corroborate the affidavit only shows the resultant structure using Venturi tube. There is no evidence to corroborate the

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existence of the bulge or other limitations of the claims prior to insertion of the Venturi.

Therefore, rejection must be entered as to these claims.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 308-1605. The examiner can normally be reached on Monday-Friday (except Wednesday) from 7:15 a.m. to 5:45 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-finals) or (703) 872-9311 (after-finals).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



MCP



David A. Simmons  
Supervisory Patent Examiner  
Technology Center 1700

January 24, 2003